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7 **UNITED STATES DISTRICT COURT**  
8 **NORTHERN DISTRICT OF CALIFORNIA**  
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10 ESTELLA F. HUGHES,  
11 Plaintiff,

12 v.

13 LINCARE, INC., a Delaware corporation;  
14 LINCARE HOLDINGS, INC., a Delaware  
15 corporation; ROBERT FOSDICK; and  
16 DOES 1 through 20, inclusive,  
Defendants.

Case No. 14-cv-05350 NC

**ORDER RE: SUPPLEMENTAL  
SUBMISSIONS ON MOTION FOR  
REMAND**

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18 Pending before the Court is plaintiff's motion to remand the case to state court,  
19 which is currently set for hearing on February 25, 2015. In calculating the amount in  
20 controversy for purposes of plaintiff's unreimbursed business expenses claim, defendants  
21 rely in part on the assumption that the other 830 members of the putative class drove 80%  
22 of the miles plaintiff claims to have driven each month. Dkt. Nos. 1, 17. In her reply,  
23 plaintiff challenges this assumption as unsupported by evidence. Dkt. No. 18.

24 By February 20, defendants may submit a supplemental brief, limited to 3 pages,  
25 accompanied by any declarations or other evidence, providing the basis for the assumption  
26 regarding the work-related miles driven by the putative class members and explaining why  
27 that is a reasonable assumption. *See Ibarra v. Manheim Investments, Inc.*, No. 14-56779,  
28 2015 WL 321659, at \*4 (9th Cir. Jan. 8, 2015) "[A] damages assessment may require a

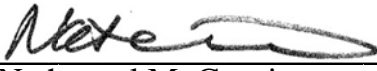
1 chain of reasoning that includes assumptions. When that is so, those assumptions cannot be  
2 pulled from thin air but need some reasonable ground underlying them.”); *see also LaCross*  
3 *v. Knight Transp. Inc.*, No. 14-56780, 2015 WL 106179, at \*3 (9th Cir. Jan. 8, 2015).

4 By February 27, plaintiff may file a response to the supplemental brief, limited to 3  
5 pages, accompanied by any declarations or other evidence.

6 The hearing on the motion to remand is continued to March 11, 2015, at 1:00 p.m. in  
7 Courtroom 7, 4th Floor, San Jose Federal Courthouse, 280 South First Street, San Jose,  
8 California.

9 IT IS SO ORDERED.

10 Date: February 13, 2015

  
Nathanael M. Cousins  
United States Magistrate Judge